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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,426	08/26/2003	Bharat Jani	WLCO 0176 PUS	4538
23869	7590	06/12/2006		
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			EXAMINER CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER

1761

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/664,426
Filing Date: August 26, 2003
Appellant(s): JANI ET AL.

MAILED
JUN 12 2006
GROUP 1700

Christina Geerlof
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 29, 2006 appealing from the Office action mailed August 26, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Serial No. 10/664,427

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

4,250,196	Friello	2-1981
3,062,662	McDonald	11-1962

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 22-24 stand rejected under 35 U.S.C. 103(a). This rejection is fully set forth on page 3 of prior Office action dated February 9, 2005.

(10) Response to Argument

Although McDonald indicates that the bubble gum partially melt and mix with the candy, as appellant argues, McDonald also clearly discloses that the bubble gum is disposed in the center of the "candy coating" (col. 2, lines 42-43) and that the candy syrup forms a "suitable coating" over the intermixed confection (col. 2, lines 62-63), thereby leading to the conclusion that the candy syrup may intermix with the gum as well as coat the gum. The coating provides the gum with an attractive form tailored to a child's liking (col. 1, lines 20-28). Thus, there is motivation for coating the gum product of Friello in order to make it more attractive to children.

Once coated, the gum product of Friello will possess water impenetrability thereby contradicting appellant's belief that the water impenetrability of the gum base material in Friello could be disrupted (page 7 of appellant's brief).

Appellant's additional contentions on page 6 of the brief are without merit. Appellant refers to "potential" issues of leaking or moisture migration of the liquid center

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in Friello and unpredictable disruption of the gum layer and jeopardizing the integrity of the gum in Friello as a result of coating the gum therein. However, these assertions are based upon mere conclusion without any supporting factual evidence of record. Thus, a prima facie case of obviousness has been established and has not been successfully refuted by appellant.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Arthur L. Corbin

Conferees:

Milton Cano



Glenn Caldarola



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Arthur L Corbin
Primary Examiner
Art Unit 1761

6-8-06